# IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE P.N.RAVINDRAN

FRIDAY, THE 14TH DECEMBER 2007 / 23RD AGRAHAYANA 1929

## W.P.(C).No.37103 of 2007(S)

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PETITIONER:-
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M.K.MUHAMMAD FATHAHUDDEEN,
MAYANKAKADA HOUSE, KEECHERY,
ANDROTT ISLAND, 682 551,
U.T. OF LAKSHADWEEP.

BY ADV. DR.VINCENT PANIKULANGARA
SRI.V.S.CHANDRASEKHARAN
SMT.LEKSHMI SWAMINATHAN

RESPONDENTS:-
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1. UNION OF INDIA
REPRESENTED BY THE SECRETARY,
MINISTRY OF HOME AFFAIRS,
NEW DELHI- 110 001.

2. UNION TERRITORY OF LAKSHADWEEP,
REPRESENTED BY THE ADMINISTRATOR,
LAKSHADWEEP ADMINISTRATION,
KAVARATTI 682 555,
U.T.OF LAKSHADWEEP.

3. CHAIRMAN & MANAGING DIRECTOR,
HINDUSTAN SHIPYARD LTD.,
406, VIKRAM TOWERS, 16 RAJEDRA PALACE,
VISHAKHAPATTANAM-530 005,
ANDHRA PRADESH.

R1 BY ASSISTANT SOLICITOR GENERAL SRI.P.PARAMESWARAN NAIR
R2 BY STANDING COUNSEL SRI.P.R.RAMACHANDRA MENON.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**H.L.Dattu,C.J. & P.N.Ravindran,J.**

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W.P.(C).No.37103 of 2007-S

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Dated, this the 14th day of December, 2007

**JUDGMENT**

**P.N.Ravindran,J.**

The petitioner is an Indian citizen, residing in Andrott Island in the Lakshadweep group of Islands. He has filed this writ petition, purportedly in public interest, seeking the following reliefs:

> "(i) to issue a writ in the nature of mandamus commanding the 1st respondent to conduct an enquiry regarding the delay in the delivery of m.v Kavaratti by the 3rd respondent and the inaction of the 2nd respondent regarding the delay.
>
> (ii) to issue a writ in the nature of mandamus commanding respondents 2 and 3 to submit a report to this Hon'ble Court with regard to the present position of m.v Kavaratti and when m.v Kavaratti will be delivered to the 2nd respondent.
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> (iii) to issue a writ in the nature of mandamus commanding the 2nd respondent to realize compensation from the 3rd respondent for the delay in the delivery of m.v Kavaratti, in the form of another passenger vessel having the name 'm.v Compensation" and the capacity of 750 passengers.
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> (iv) to issue a writ in the nature of mandamus commanding the 1st respondent to proceed against the officers of respondents 1 / 2 for not executing Ext.P-1 on time and to realize damages/compensation from the officers concerned".

(2) The essence of the complaint raised by the petitioner is that though a ship building contract was entered into by the Administrator, Union Territory of Lakshadweep, with a Government concern, viz., the Hindustan Shipyard Ltd., Vishakhapattanam as early as on 18.08.2000, the ship has not

been built and delivered over to the Lakhadweep administration. The main allegation in the writ petition is that though the builder had agreed to deliver the ship in 29 months, notwithstanding the fact that more than 88 months have elapsed after the agreement was entered into and the lion's share of the amount payable under the contract has been paid, the ship has not been built or delivered over to the owner.

(3) Article XII of Exhibit P1 agreement contains the stipulations regarding the default if any committed by the owner or the builder, as the case may be. Article XIII provides for resolution of disputes between the builder and owner by way of arbitration.

(4) The petitioner is not a party to Exhibit P1 contract. The essence of the relief claimed by him is, enforcement of the contract entered into by the Administrator, Union Territory of Lakshadweep with a Government concern, viz., the Hindustan Shipyard Ltd. It is important to notice that though the petitioner has sought for four reliefs in the writ petition, they are in the nature of an enquiry into the delay in the ship building activity and no relief is sought regarding completion of the ship building within a time frame. After hearing the learned counsel appearing for the petitioner at length and after going through Exhibit P1 agreement and also the reliefs sought for in the writ petition, we are of the opinion that the attempt of the petitioner is to seek enforcement of a contract entered into by the Administrator, Union Territory of Lakshadweep, the owner, with Hindustan Shipyard Ltd., the ship builder, and that the reliefs prayed for by the petitioner cannot be granted. The petitioner is a third party to the contract. He cannot seek enforcement of the contract in the guise of a public interest litigation, which will have the effect of affecting the rights inter se between the builder and the owner of the ship. In that view of the matter, we decline jurisdiction and dismiss the writ petition.

(5) Towards the end of the arguments, the learned counsel appearing for the petitioner made a prayer that the second interim prayer made in the writ petition may be granted. The second interim relief sought in the writ petition reads:

> "(ii) to direct the 3rd respondent to arrange travel facility from Cochin/Kozhikode to and fro the UT by another passenger vessel of the capacity of m.v Kavaratti at the expense of the 3rd respondent forthwith until the delivery and commissioning of m.v Kavaratti, pending disposal of this writ petition".

(6) We are at a loss to understand how the second interim prayer can be granted when it has no bearing on the issue raised in the writ petition and is not ancillary or incidental to the main prayers in the writ petition. We decline the said prayer also.

(7) In our considered opinion, the writ petition lacks merits and is liable to be rejected. We accordingly dismiss the writ petition.

H.L.Dattu
Chief Justice

P.N.Ravindran
Judge

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